



UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/330,235	06/10/99	KNUTZON	D 17256/01

PATENT DEPARTMENT CENTRAL
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HM12/1004

EXAMINER	
MCELWAIN, E	
ART UNIT	PAPER NUMBER

1638

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DATE MAILED: 10/04/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/330,235

Applicant(s)

Knutzon

Examiner
Elizabeth McElwain

Group Art Unit
1638



☒ Responsive to communication(s) filed on Jun 10, 1999

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 1 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claim

☒ Claim(s) 1-18 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☐ Claim(s) _____ is/are rejected.

☐ Claim(s) _____ is/are objected to.

☒ Claims 1-18 are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☒ None of the CERTIFIED copies of the priority documents have been received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s) _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

Election/Restriction

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1 and 4-12, drawn to methods for producing stearidonic acid in a plant seed by transforming a plant with a delta-six desaturase, classified in class 800, subclass 281.
 - II. Claim 2, drawn to methods for producing stearidonic acid in a plant seed by transforming a plant with a delta-six desaturase and a delta-12 desaturase, classified in class 800, subclass 281.
 - III. Claims 3, drawn to methods for producing stearidonic acid in a plant seed by transforming a plant with a delta-six desaturase and a delta-15 desaturase, classified in class 800, subclass 281.
 - IV. Claims 13-17, drawn to seed, classified in class 800, subclass 295.
 - V. Claim 18, drawn to seed oil, classified in class 426, subclass 601.
2. The inventions are distinct, each from the other because of the following reasons:
3. The claims of Groups I-III are drawn to distinct methods which differ in the method steps and components, and result in different products. The claims of Groups IV and V are drawn to distinct products which are capable of separate manufacture, use and sale. In addition, the methods of Groups I-III are not required for the production of the seeds of Group IV or the oil of

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Group V, wherein each can be made by a different method, such as by plant breeding for the seeds or by chemical synthesis to produce to oil; and neither the seeds nor the oil are required to practice any of the methods of Groups I-III.

4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classifications and art recognized divergent subject matter and because the searches required for Groups I-V are not coextensive, restriction for examination purposes as indicated is proper.

5. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143)

6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth McElwain, Ph.D., whose telephone number is (703) 308-1794. The examiner can normally be reached on Monday-Friday, with the exception of alternate Mondays from 8:30 am to 5:00 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paula Hutzell, Ph.D., can be reached on (703) 308-4310. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-4242.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.

September 30, 2000

ELIZABETH F. McELWAIN
PRIMARY EXAMINER
GROUP 1800

